

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

CHRISTOPHER BANKS

PLAINTIFF

v.

CIVIL ACTION NO. 2:20-cv-28-TBM-MTP

CITY OF PETAL, MISSISSIPPI, et. al.

DEFENDANTS

**ORDER ADOPTING REPORT AND RECOMMENDATION AND
GRANTING DEFENDANT CITY OF PETAL'S MOTION TO DISMISS**

This matter is before the Court on submission of the Report and Recommendation [21] entered by United States Magistrate Judge Michael T. Parker on November 19, 2020. Defendant City of Petal, Mississippi filed a Motion to Dismiss [18] for lack of subject matter jurisdiction and failure to state a claim pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). The Plaintiff did not file a response.

After considering the submissions of the parties, the record, and relevant legal authority, Judge Parker concluded that the Plaintiff failed to state a claim against the City of Petal. Judge Parker recommends that the City of Petal's Motion to Dismiss [18] be granted and that Defendant City of Petal be dismissed from the action without prejudice. The Plaintiff has not filed an objection to the Report and Recommendation, and the time for filing an objection has expired.

"When a party fails timely to file written objections to the magistrate judge's proposed findings, conclusions, and recommendation, that party is barred from attacking on appeal the unobjected-to proposed findings and conclusions which the district court accepted, except for plain error." *Casas v. Aduddell*, 404 F. App'x 879, 881 (5th Cir. 2010); *Thomas v. Arn*, 474 U.S. 140, 152, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985) ("There is no indication that Congress, in enacting § 636(b)(1)(C), intended to require a district judge to review a magistrate's report to which no

objections are filed.”). Having considered Judge Parker’s Report and Recommendation, the Court finds that it is neither clearly erroneous nor contrary to law.

IT IS THEREFORE ORDERED AND ADJUDGED that the Report and Recommendation [21] entered by United States Magistrate Judge Michael T. Parker on November 19, 2020 is ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED AND ADJUDGED that the Defendant City of Petal’s Motion to Dismiss [18] is GRANTED and Defendant City of Petal is DISMISSED from this action WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the claims asserted against the remaining Defendant, Forrest County, Mississippi, remain pending.

THIS, the 13th day of May, 2021.


TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE